

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

LARRY D. CHRISTMAS, JR.

Acting pro se

PLAINTIFF

vs.

CIVIL ACTION No.: 3:15-CV-932-HTW-LRA

DG FOODS, LLC

DEFENDANT

ORDER TO SHOW CAUSE

On June 15, 2018, this court held a show cause hearing with the parties for the *pro se* plaintiff, Larry D. Christmas, Jr. (hereinafter referred to as “Christmas”) to explain his absence at a scheduled hearing that had been set on January 3, 2018. Christmas filed an unopposed motion to continue that hearing, after this court held that hearing, on January 8, 2018. [Docket no. 146]. The court dismissed Christmas’ complaint without prejudice on January 5, 2018. [Docket no. 145]. As a part of that order, this court allowed Christmas five (5) days to come into compliance with its rules and to show cause why had he failed to appear at the January 3, 2018, hearing.

On May 8, 2018, this court GRANTED Christmas’ Motion to Reconsider, Alter or Amend its order dismissing his case and setting this lawsuit for a hearing on May 22, 2018. [Docket 155]. In that same order, this court demonstrated its largesse by granting Christmas’ motion to continue, filed five (5) days after the January 3, 2018, hearing. The day before the May 22, 2018, hearing, Christmas filed an unopposed motion to continue which this court GRANTED and reset this matter for a hearing on June 15, 2018. [Text Only Order 5/21/2018].

The parties appeared for the June 15, 2018, hearing and the court heard from Christmas as to why he had failed to appear and explained to him that he must file his motion to continue before the hearing with the United States District Court Clerk, and not by placing a copy of the motion in the United States Postal Service. The court also explained to Christmas that he must

appear unless the court grants a continuance. The court then set this matter for August 3, 2018 at 10:30 a.m. for oral argument on the Defendant's Motion for Summary Judgment [Docket no. 121].

Christmas filed a Motion to Continue the August 3, 2018, hearing on August 1, 2018. [Docket no. 159]. To date, this court has not entered an order either granting or denying Christmas' Motion to Continue.

This court called the hearing on August 3, 2018, and Christmas again failed to appear. The court called Christmas at the phone number that Christmas has listed in the court's docket report and left a voice mail when Christmas failed to answer the court's telephone call. Christmas has not appeared before this court, nor has he contacted the court. Accordingly, this court granted Attorney Siler, attorney for the defendants, his costs for appearing on August 3, 2018.

The court notes that the United States District Court Clerk did not return this matter to this court's active docket and that it should have been on May 8, 2018, in accordance with its order of that date. [Docket no. 155].

IT IS, THEREFORE, ORDERED that the United States District Court Clerk is hereby ordered to return this lawsuit to this court's active docket.

IT IS FURTHER ORDERED that Christmas' Motion to Continue [Docket no. 159] is hereby DENIED.

IT IS FURTHER ORDERED that Christmas is to appear before this court on Friday, January 18, 2019, at 1:30 p.m. and explain to this court the reason for his failure to appear on August 3, 2018. Attorney Siler has traveled from Memphis, Tennessee personally to appear, and has done so for two hearings this year when Christmas failed to

appear. Accordingly, on January 18, 2019, Attorney Siler may attend the hearing telephonically if he so chooses. He must contact the court beforehand to inform this court if he intends to attend in person or telephonically.

IT IS FINALLY ORDERED that Attorney Siler shall file his Bill of Costs for this court's review within fourteen (14) days of the entry of this order. Attorney Siler's Bill of Cost shall include his travel, attorney fees, and per diem costs from Memphis, Tennessee for the following dates: January 3, 2018; June 15, 2018; and August 3, 2018.

SO ORDERED this the 2nd day of January, 2019.

s/ HENRY T. WINGATE
UNITED STATES DISTRICT COURT JUDGE